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VIA ECF

Hon. Andrew L. Carter, Jr.
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: Kirk v. Citigroup Global Markets Holdings Inc., 1:20-cv-07619 (S.D.N.Y.)

Dear Judge Carter:

In connection with Citigroup Global Markets Holdings Inc. ("CGMHI")'s pending motion for sanctions (ECF Nos. 70-72), I write on CGMHI's behalf to provide the Court with additional information concerning Plaintiff's ongoing sanctionable conduct. Based on a review of the meta-data in recent filings submitted to this Court, Plaintiff has disregarded the Court's directive that he "may not act on behalf of any of the other *pro se* plaintiffs in cases already filed or yet to be filed." ECF No. 45 at 8:3-12.

On June 23, 2021, three filings were made in the *Allen* (21-cv-2387, ECF No. 20), *Jacobson* (21-cv-2384, ECF No. 20), and *Zellner* (21-cv-2413, ECF No. 23) actions pending before this Court. Apart from substantial similarity in terms of format and content, each filing contains meta-data identifying the "Author" as "David Kirk." See Exhibits A-C (annexed hereto). Filings in another action pending in this District (*Thomas v. CGMHI*, No. 21-cv-03673-VEC-DCF, ECF Nos. 18, 21) similarly have meta-data identifying the "Author" as "David Kirk." See Exhibits D-E (annexed hereto).¹

These filings indicate that Plaintiff continues to act on behalf of other *pro se* litigants in contravention of the Court's prior orders (see ECF No. 45 at 8:3-12) and notwithstanding the Court's warning of a potential *sua sponte* dismissal of this action (see ECF 51 at 2), which CGMHI respectfully submits is appropriate at this juncture. See *Brown v. County of Nassau*, No. 14-cv-0247 (SJF) (ARL), 2015 WL 1535713, at *4 (E.D.N.Y. April 6, 2015) (dismissing *pro se* litigant's action and finding that "no sanction less draconian than dismissal" would be effective in light of continued failures to comply with the court's orders and disregard of prior warnings (citations omitted)).

Respectfully submitted,

/s/ Samuel J. Rubin

Samuel J. Rubin

Cc: David Kirk (*via* ECF)

¹ The meta-data fields are set forth in the attached screenshots (Exhibits A-E) for convenience of the Court. The meta-data fields also can be observed directly by the Court from the CM-ECF PACER system by accessing the filings at issue and selecting the "Document Properties" view from the terminal used to view the filing.